



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 221228-0283]

RTID 0648-XC484

Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery; Final 2023 Atlantic Deep-Sea Red Crab Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: We are finalizing specifications for the 2023 Atlantic deep-sea red crab fishery, including an annual catch limit, and total allowable landings limit. This action is necessary to fully implement previously projected allowable red crab harvest levels that will prevent overfishing and allow harvesting of optimum yield. This action is intended to establish the allowable 2023 harvest levels, consistent with the Atlantic Deep-Sea Red Crab Fishery Management Plan.

DATES: The final specifications for the 2023 Atlantic deep-sea red crab fishery are effective March 1, 2023, through February 29, 2024.

FOR FURTHER INFORMATION CONTACT: Laura Deighan, Fishery Management Specialist, (978) 281-9184.

SUPPLEMENTARY INFORMATION: The Atlantic deep-sea red crab fishery is managed by the New England Fishery Management Council. The Atlantic Deep-Sea Red Crab Fishery Management Plan includes a specification process that requires the Council to recommend an acceptable biological catch, an annual catch limit, and total allowable landings every four years. Collectively, these are the red crab specifications. Prior to the

start of fishing year 2020, the Council recommended specifications for the 2020-2023 fishing years (Table 1).

Table 1 -- Council-Approved 2020-2023 Red Crab Specifications

	Metric ton	Million lb
Acceptable Biological Catch	2,000	4.41
Annual Catch Limit	2,000	4.41
Total Allowable Landings	2,000	4.41

On April 14, 2020, we approved the Council-recommended specifications for the 2020 fishing year, effective through February 28, 2021, and we projected the continuation of those specifications for 2021-2023 (85 FR 20615). At the end of each fishing year, we evaluate catch information and determine if the quota has been exceeded. If a quota is exceeded, the regulations at 50 CFR 648.262(b) require a pound-for-pound reduction in a subsequent fishing year. We have reviewed available 2022 fishery information against the projected 2023 specifications. There have been no annual catch limit or total allowable landings overages, nor is there any new biological information that would require altering the projected 2023 specifications published in 2020. Based on this information, we are finalizing specifications for fishing year 2023, as projected in the 2020 specifications rule, and outlined above in Table 1. These specifications are not expected to result in overfishing, and they adequately account for scientific uncertainty. This is the final year of these specifications, and new specifications will be developed by the Council for 2024 and beyond.

Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Deep-Sea Red Crab Fishery Management Plan, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

This rule is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), we find good cause to waive prior public notice and opportunity for public comment on the catch limit and allocation adjustments, because allowing time for notice and comment would be contrary to the public interest. The proposed rule for the 2020-2023 specifications provided the public with the opportunity to comment on the specifications, including the projected 2021 through 2023 specifications (85 FR 9717, February 20, 2020). We received no comments on the proposed rule announcing the projected 2021-2023 specifications and the process for announcing finalized interim year quotas. Further, this final rule contains no changes from the projected 2023 specifications that were included in both the February 20, 2020, proposed rule and the April 14, 2020, final rule. The public and industry participants expect this action. Through both the proposed rule for the 2020-2023 specifications and the final rule for the 2020 specifications, we alerted the public that we would conduct a review of the latest available catch information in each of the interim years of the multi-year specifications and announce the final quota prior to the March 1 start of the fishing year. Thus, the proposed and final rules that contained the projected 2021-2023 specifications provided a full opportunity for the public to comment on the substance and process of this action.

The Chief Counsel for Regulation, Department of Commerce, previously certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that the 2020-2023 red crab specifications would not have a significant economic impact on a substantial number of small entities. Implementing the 2023 specifications will not change the conclusions drawn in that previous certification to the SBA. Because advance notice and the opportunity for public comment are not required for this action under the Administrative Procedure Act, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, do not apply to this rule. Therefore, no new regulatory flexibility analysis is required and none has been prepared.

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 30, 2022.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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